

**Congress of the United States**  
**Washington, DC 20515**

December 9, 2011

The Honorable Howard "Buck" McKeon  
Chairman  
U.S. House Committee on Armed Services  
2120 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Adam Smith  
Ranking Member  
U.S. House Committee on Armed Services  
2120 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Carl M. Levin  
Chairman  
U.S. Senate Committee on Armed Services  
SR-228 Russell Senate Office Building  
Washington, D.C. 20510

The Honorable John McCain  
Ranking Member  
U.S. Senate Committee on Armed Services  
SR-228 Russell Senate Office Building  
Washington, D.C. 20510

Chairman McKeon, Chairman Levin, Ranking Member Smith, Ranking Member McCain:

Thank you for your continued hard work negotiating the final language of the Fiscal Year 2012 National Defense Authorization Act (NDAA).

We are in the process of collecting signatures on a letter we have initiated regarding troubling provisions of the House- and Senate-passed NDAA bills pertaining to detainee policy and the authorization for use of military force.

In light of the accelerated timeline for conference and the importance we attach to these issues, we have decided to share the text of our letter with you in advance of securing the signatures of all Members of Congress who may share our concern.

We will send you the signed letter by the close of business on Monday, December 12, 2011. In the mean time, we hope you will give full consideration to our concerns as expressed below.

Sincerely,



Hank Johnson  
Member of Congress  
House Committee on Armed Services



Martin Heinrich  
Member of Congress  
House Committee on Armed Services

CC: Rep. Roscoe Bartlett, Rep. Mac Thornberry, Rep. Todd Akin, Rep. Randy Forbes, Rep. Jeff Miller, Rep. Frank LoBiondo, Rep. Michael Turner, Rep. John Kline, Rep. Mike Rogers, Rep. Bill Shuster, Rep. Michael Conaway, Rep. Rob Wittman, Rep. Duncan Hunter, Rep. Tom Rooney, Rep. Robert Schilling, Rep. Tim Griffin, Rep. Allen West, Rep. Silvestre Reyes, Rep. Loretta Sanchez, Rep. Michael McIntyre, Rep. Robert Andrews, Rep. Susan Davis, Rep. James Langevin, Rep. Rick Larsen, Rep. James Cooper, Rep. Madeline Bordallo, Rep. Joseph Courtney, Rep. James Loebsack, Rep. Nikki Tsongas, Rep. Chellie Pingree

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Chairman McKeon, Chairman Levin, Ranking Member Smith, Ranking Member McCain:

We write to raise serious concerns regarding three sections of the Fiscal Year 2012 National Defense Authorization Act (NDAA).

The House-passed version of the NDAA, H.R. 1540, contains Section 1034, an expansive authorization for detention of and use of military force against broadly defined adversaries substantially exceeding the scope of such authorizations already in law. The expanded authority has no geographical limits, provides authority for open-ended armed conflict, and is unacceptably broad. We strongly object to the inclusion of this language in the final authorizing bill.

The Senate-passed version of the NDAA, S. 1867, contains Section 1031, which authorizes indefinite military detention of suspected terrorists without protecting U.S. citizens' right to trial. We are deeply concerned that this provision could undermine the Fourth, Fifth, Sixth, Seventh, and Eighth amendment rights of U.S. citizens who might be subjects of detention or prosecution by the military.

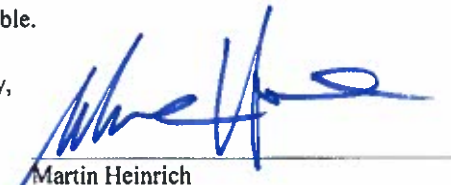
Furthermore, Section 1032 of S. 1867 would require that suspected foreign terrorists be taken into custody by the military instead of civilian law enforcement authorities. This would deny civilian law enforcement authorities the flexibility necessary to conduct effective counterterrorism operations. Respected bipartisan members of the national security community -- including the Secretary of Defense, the Director of National Intelligence, the Director of the Federal Bureau of Investigation, the Director of the Central Intelligence Agency, and the head of the Justice Department's National Security Division -- oppose this provision. We also strongly oppose its inclusion in the NDAA.

As you know, President Barack Obama has issued a veto threat because of these provisions. We urge you to make appropriate changes so that Congress can provide essential resources to our armed forces while ensuring we have the flexibility to confront terrorism as effectively as possible.



Hank Johnson  
Member of Congress  
House Committee on Armed Services

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Martin Heinrich  
Member of Congress  
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